



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

#12
W. H. Lee
7-31-03

In re the Patent Application of:)

Altman et al.)

Date: July 20, 2003)

Serial No.: 09/823,458)

Art Unit: 2632)

Filed: March 30, 2001)

Examiner: J. Lieu)

For. METHOD AND APPARATUS FOR)
PROVIDING INFORMATION TO A MOBILE)
CONSUMER)

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HONORABLE COMMISSIONER FOR PATENTS, PO Box 1450
Alexandria, Virginia 22313-1450

APPEAL BRIEFIN SUPPORT OF APPELLANTS' APPEALTO THE BOARD OF PATENT APPEALS AND INTERFERENCES

Sir:

Applicants (hereafter "Appellants") hereby submit this Brief in triplicate in support of their Appeal from a final decision by the Examiner in the above-captioned case. Appellants respectfully request consideration of this Appeal by the Board of Patent Appeals and Interferences for allowance of the claims in the above-captioned patent application.

An oral hearing is not desired.

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I. REAL PARTY IN INTEREST

The invention is assigned to Intel Corporation of 2200 Mission College Boulevard, Santa Clara, California 95052.

II. RELATED APPEALS AND INTERFERENCES

To the best of Appellants' knowledge, there are no appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision.

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III. STATUS OF THE CLAIMS

Claims 1, 3-20, and 22 are currently pending in the above-referenced patent application. Claims 1, 3-20, and 22 were rejected in the Final Office Action mailed on November 19, 2002 and are the subject of this appeal. The Examiner confirmed her final rejection in an Advisory Action mailed on June 9, 2003.

Claims 1, 3-20, and 22 stand rejected under 35 U.S.C. § 103(a) on U.S. patent 6,353,398 by Amin et al. in view of Titmuss et al. US Patent 6,397,040.

IV. STATUS OF AMENDMENTS

To the best of Appellants' knowledge, no amendments have been filed subsequent to the Final Rejection.

A copy of all claims on appeal, namely claims 1, 3-20, and 22, is attached hereto as Appendix A.

V. SUMMARY OF THE INVENTION

Simply stated, embodiments of the present invention may allow a user of a mobile communication device to request consumer information based on their current or anticipated location relative to service vendors. For example, a user may be able to request a service (i.e. nearest location of a gas station) and receive directions to that location. In another example, a theater may notify customer within 10 miles of the theater that there are discounted tickets available for an upcoming show. (page 6, lines 12-20).

In contrast, traditional advertising situations the system may do the reverse. In particular, the vendor may determine what information is pushed to the consumers. For example, a store may have a profile for a particular customer and determine what information to direct to that customer. For example, if a customer recently bought a particular product at that store, the system may determine to inform the consumer that there is a sale on similar products at that store. Thus, the vendor (e.g. store) determines what information to push to the consumer's PDA, cell phone, etc.

In contrast, embodiments of Appellants' invention allow the consumer to filter the information and request information (e.g. pull the information). The method may begin with a user of a portable communication device specifying particular user preferences for the type and/or nature of the consumer information that the user may be interested in receiving, step 200 of FIG. 2. Simply stated, the user may desire to select criteria that may be used to filter or condition the type of information that is provided to the user. For example, the portable communication device may use a processor to execute a computer program that allows the user to indicate particular preferences. This information may then be stored in volatile or non-volatile memory for future use. (see page 7, lines 16-22).

Simply stated, Appellants' claimed invention includes, as just one embodiment:

A method comprising:

identifying a reference location (*block 201 of FIG. 2, e.g. determine the user's current location*); and

providing consumer information determined at least in part on a vendor's proximity to the reference location, wherein the consumer information being received by a portable communication device is filtered by user preferences stored in the portable communication device (block 204, the user requests what information is to be sent to consumer).

VI. ISSUES PRESENTED

- A. Whether claims 1, 3-20, and 22 are unpatentable under 35 U.S.C. § 103(a) over Amin et al. in view of on Titmus et al.

VII. GROUPING OF CLAIMS

For the purposes of this appeal:

Claims 1, 3-20, and 22 stand or fall together as Group I.

VIII. ARGUMENT

A. REJECTION OF CLAIMS 1,3-20, AND 22 (GROUP I) UNDER 35 U.S.C. § 103(a) OVER AMIN ET AL. IN VIEW OF TITMUS ET AL. IS IMPROPER. ONE SKILLED IN THE ART WOULD NOT COMBINE THE REFERENCES AS SUGGESTED BY THE EXAMINER BECAUSE THE TEACHINGS OF TITMUS ET AL. WOULD DESTROY THE FUNCTION OF THE TEACHINGS OF AMIN ET AL.

Claim Group I

Claim 1 states:

1. A method comprising:

identifying a reference location; and

providing consumer information determined at least in part on a vendor's proximity to the reference location, wherein the consumer information being received by a portable communication device is filtered by user preferences stored in the portable communication device.

The Examiner has rejected claims 1, 3-20, and 22 under 35 U.S.C. §103(a) as being unpatentable over Amin et al. (US 6,353,398) in view of Titmuss et al. (US 6,397,040). Appellants respectfully traverse this rejection in view of the remarks that follow.

1) THE PROPOSED MODIFICATION OF TITMUSS ET AL. WOULD RENDER THE STRUCTURE OF AMIN ET AL. UNSATISFACTORY FOR ITS INTENDED PURPOSE

As discussed in M.P.E.P. §2143.01, if a proposed modification would render the device shown in the cited patent being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

The Examiner indicated that the structure shown in Amin et al. could be modified to include the concept of user's preferences as taught by Titmuss et al. because it would help to reduce the irrelevant information to be delivered to the user.

However, Appellants respectfully submit that the combination of Amin et al. and Titmuss et al. cannot make Appellants' claimed invention obvious because the teachings of Titmuss et al. would render the structure taught in Amin et al. unsatisfactory for its intended purpose.

Cited Document #1 – Amin et al.

With reference to FIG. 2, Amin et al. describes an information distribution system that pushes information to a user, based, at least in part, on the location of the user. The information sent is based on movement detection provided by a global position system. (Column 3, lines 51-53)

According to Amin et al., as a user moves within a region, the directed information system **pushes information to the user in connection with the movement**. (emphasis added) Upon notification of the user's location, the directed information system links relevant information that is associated with the particular geographical location and subsequently provides the information to the GPS to be transmitted to the user. As the user moves, different audio and visual information **is pushed in connection with the movement**. For example, as a user is within a first region, internet data associated with a first storage data section is **pushed to the user**. As the user moves to a second geographical location, data associated with a second storage data section is **pushed** to a user (emphasis added) (column 3, lines 55-67).

Amin et al. goes on to explain that advertisers and/or retailers may then determine what information gets **pushed** to the user based on a variety of factors. For example, an advertiser may push information demographic data (e.g. income level). Amin et al. makes clear that the value of the information system is that the system can determine what information gets sent or pushed to the user. In other words, the system, not the user, determines what information is displayed to the user.

Cited Document #2 – Titmuss et al.

According to the Examiner, Titmuss et al. teaches that a device sets information so that the user, not the system determines what information is display to the user. The Examiner also went on to state that one skilled in the art would combine the teachings of the two documents because it would help reduce irrelevant [sic] information delivered to a user.

However, Appellants respectfully submit that one skilled in the art would not be motivated to modify the teaching of Amin et al. in accordance with Titmuss et al. because such

a modification would destroy the intended purpose of the information system taught by Amin et al. In particular, the system of Amin et al. has the purpose of allowing the system (i.e. advertisers, store owners, etc.) to decide what information is sent. More specifically, the system taught by Amin et al. allows the vendor to determine what information is pushed to the consumer. However, by modifying the system of Amin et al. as suggested by the Examiner, this purpose would be destroyed. For example, an advertiser would not want a system where the user has the ability to reject the advertisements. By analogy, Amin et al teaches the concept of delivering commercials to a consumer. However, the Examiner's suggestion destroys such a capability. This, in turn, destroys the value of the system taught by Amin et al.

As a matter of law, one skilled in the art cannot be motivated to modify the teachings of Amin et al. as suggested by the Examiner because such a modification destroys the intended purpose, value, and operation of the system taught by Amin et al.

Examiner's comments in the Advisory Action further support this conclusion

In the Advisory Action the Examiner stated that Amin et al. does not disclose the feature of restricting the information provided to a user (see last two lines of page 2). Thus, the Examiner admits that Amin et al. only teaches the concept of allowing the vendor to determine what information is pushed to a consumer. This is also confirmed by the express text of Amin et al as shown above. Thus, one skilled in the art would not be motivated to make the modification suggested as this is neither taught by Amin et al., and more importantly, the modification would destroy the operation of the system taught by Amin et al.

Accordingly, Appellants respectfully submit that the proposed modification of Amin et al would destroy the intended purpose and/or benefit of the geographical information system that is based on pushing data to a user. Therefore, Appellants respectfully submit that the combination of Amin et al. and Titmuss et al. cannot make Applicants' claims 1, 3-20, and 22 obvious, because the modification proposed in the Final Office Action would make the structure of Amin et al. unsatisfactory for its intended purpose. Thus, there can be no motivation to combine Amin et al. and Titmuss et al. as suggested in the Final Office Action. Accordingly, Applicants respectfully traverse the rejection of claims 1, 3-20, and 22 in view of the combination of Amin et al. and Titmuss et al.

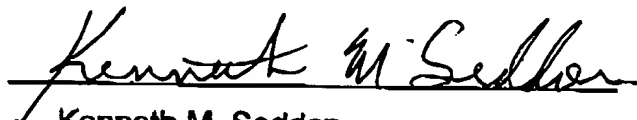
IX. CONCLUSION

Appellants respectfully submit that all the pending claims in this patent application are patentable and request that the Board of Patent Appeals and Interferences overrule the Examiner and direct allowance of the rejected claims.

This brief is submitted in triplicate, along with a check for \$320.00 to cover the appeal fee for one other than a small entity as specified in 37 C.F.R. § 1.17(c). Please charge any shortages and credit any overcharges to Deposit Account No. 02-2666.

Respectfully submitted,

Date: 7-20-03



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X. APPENDIX A: CLAIMS ON APPEAL

1. A method comprising:
identifying a reference location; and
providing consumer information determined at least in part on a vendor's proximity to the reference location, wherein the consumer information being received by a portable communication device is filtered by user preferences stored in the portable communication device.
3. The method of claim 1, wherein providing consumer information includes providing consumer information through a wireless communication.
4. The method of claim 1, wherein identifying the reference location includes determining the current location of a user.
5. The method of claim 4, wherein determining the location of a user includes determining the location of a portable communication device with a global position satellite system.
6. The method of claim 1, wherein identifying consumer information includes inputting a location into a portable communication device.
7. The method of claim 1, further comprising requesting a service in proximity to a portable communication device.
8. The method of claim 7, wherein requesting a service includes specifying an acceptable distance from the portable communication device for the service.
9. The method of claim 7, wherein requesting a service includes specifying an acceptable price for the service.
10. The method of claim 7, wherein requesting a service includes specifying an acceptable quality level for the service.

11. The method of claim 7, wherein requesting a service includes requesting a service from the group consisting of food, lodging, and goods.

12. The method of claim 1, further comprising transmitting an offer of a service to a portable communication having a reference location that is within proximity to a vendor.

13. The method of claim 12, wherein transmitting an offer of a service includes offering a service from the group consisting of food, lodging, and goods.

14. The method of claim 1, further comprising providing directions from the reference location to a vendor associated with the consumer information.

15. The method of claim 1, further comprising providing directions from a portable communication device to a vendor associated with the consumer information.

16. A method of providing consumer information comprising:
determining a reference location;
requesting a service from a portable communication device;
providing consumer information to the portable communication device, the consumer information determined at least in part on the distance of a vendor to the reference location, and wherein the consumer information displayed is filtered using user preferences stored in the portable communication device.
17. The method of claim 16, wherein requesting a service includes requesting location of a gas station.
18. The method of claim 16, further comprising identifying user preferences for the service.
19. The method of claim 16, further comprising providing directions from the vendor to the reference location.

20. A portable communication device adapted to request a service based on the location of the portable communication device, wherein the portable communication device comprises non-volatile memory to store user preferences that are used to determine if the service is provided to the portable communication device.

22. The portable communication device of claim 22, wherein the portable communication device is further adapted to provide directions from the location of the portable communication device to the location of the service.